

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present invention. Claims 2-4 and 6-21 are pending in the present application. Claims 2, 6, 20, and 21 are independent claims. By this response, claim 5 is cancelled, and claims 6, 17, 20, and 21 are amended.

### **Scope of Amendments**

Independent claim 6 is only amended to include the content of now-cancelled claim 5. No other changes are made to this claim.

### **35 U.S.C. § 103 Rejection – Yunsk and *Venner***

Claims 2 – 4, 7, 8, 10 – 15, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yunsk “Nessus Analysis Report”, July 2001 (hereafter “Yunsk”) in view of *In re Venner*, 262 F.2d 91, 95 (CCPA 1958) (hereafter “*Venner*”), in further view of Kim “About Firewall & Network Security Chap 10” (hereafter “Kim”). Insofar as it pertains to the presently pending claims, this rejection is respectfully traversed.

Applicants respectfully note that *Venner* is case law and therefore may not be relied upon for any teachings of prior art. Specifically, Applicants note that in order for the holding of *Venner* to be applicable, all the limitations in the claims, including the automatic means, must be disclosed in the applied references. *Venner*, 262 F.2d at 96.

### **Claim 2**

Independent claim 2 pertains, in part, to a script control unit that retrieves scripts from a script accumulation unit, creates a list of input / output parameters and a test procedure, presents a list of scripts to a user, and executes a script that is selected by the user; and to a plugin control

unit that is called during script execution to execute a plugin on a test target computer. Independent claim 2 further pertains to “a springboard simulation program including a communications relay function, a packet transmission/reception function, a process start/end function, a function to input/output data to/from a process, and a file transfer function; and a springboard simulation program control unit executing the plugin on the test target computer via the springboard simulation program upon instruction from the plugin.”

#### Substantive Art

The Office Action admits that Yunsk does not teach the springboard simulation program and program control unit aspects of claim 2, and instead relies on Kim for this teaching. (Page 5 of Office Action).

Applicants respectfully submit that while Kim suggests performance and graphical user interface (GUI) related customization scripts may be added to the Nessus system, Kim does not actually teach or suggest any specific modifications or customization scripts for Nessus. Kim makes no mention of “a springboard simulation program” or the explicit addition thereof to the Nessus system. Further, Applicants respectfully submit that Kim does not teach or suggest “a function to input/output data to/from a process” or “a springboard simulation program control unit” that is operable from within a plugin to execute that plugin on a remote computer.

The Office Action notes, in the Response to Arguments section that “a springboard simulation program is not [a] common term in the art is just a program that runs the plugin test on a target computer.” Applicants neither accept nor dispute this assertion, but simply point out that Kim does nothing beyond making a general suggestion that “the structural body allows use of a program in the necessary direction by adding a necessary underlying function to be added anytime.” (4. Customization). Applicants respectfully submit that this statement is so broad in its scope as to be little more than an assertion that the Nessus program may be further tailored or added to as developers or system administrators see fit. There is nothing in Kim that specifically

teaches or suggests that “a springboard simulation program,” as required by independent claim 2, is contemplated as the “necessary underlying function to be added anytime.”

#### Case Law

Applicants further submit that in order for the holding of *Venner* to be applicable, all the limitations in the claims, including the automatic means, must be disclosed in the applied references. *Venner*, 262 F.2d at 96. Applicants respectfully submit that since neither Kim nor Yunsu actually teach or disclose all the elements of independent claim 2, the holding of *Venner* is not applicable.

#### Summary

Applicants therefore respectfully submit that neither Yunsu nor Kim, taken alone or in combination (assuming the references may be combined, which Applicants do not admit) teach or suggest “a springboard simulation program including a communications relay function, a packet transmission/reception function, a process start/end function, a function to input/output data to/from a process, and a file transfer function; and a springboard simulation program control unit executing the plugin on the test target computer via the springboard simulation program upon instruction from the plugin” as required by independent claim 2.

Claims 3, 4, 7, 8, 10-15, 18, and 19

Applicants respectfully submit that the deficiencies in the teaching of Yunsu and Kim with respect to independent claim 2 are incorporated by reference into all claims depending therefrom. Applicants therefore submit that claims 3, 4, 7, 8, 10-15, 18, and 19 are allowable at least by virtue of their dependency from independent claim 2.

### Summary

Applicants respectfully submit that neither Yunsk nor Kim, taken alone or in combination (assuming the references may be combined, which Applicants do not admit) teach or suggest all the limitations of independent claim 2 and all claims depending therefrom. Applicants further submit that because all of the claim limitations are not present in the references, the rule of *Venner* does not apply. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

#### 35 U.S.C. § 103 Rejection – Yunsk, Kim and Uchiyama

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yunsk in view of Kim in further view of U.S. Patent Publication 2002/0024686 by Uchiyama (hereafter “Uchiyama”). Insofar as it pertains to the presently pending claims, this rejection is respectfully traversed.

Applicants respectfully submit that Uchiyama is not relied upon, nor can it properly be relied upon, to remedy the deficiencies of Kim and Yunsk with respect to independent claim 2. Applicants therefore submit that claim 9 is allowable at least by virtue of its dependency from independent claim 2. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

#### 35 U.S.C. §103 Rejection – Yunsk, Kim, and Curtis

Claims 5, 6, 16, 17, 20, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yunsk in view of Kim, in view of *Venner*, in further view of U.S. Patent 6,507,948 by Curtis (hereafter “Curtis”). Insofar as it pertains to the presently pending claims, this rejection is respectfully traversed.

### Claim 6

Independent claim 6 pertains to a security hole diagnostic system that includes, in pertinent part, “a knowledge sharing unit verifying whether the script execution condition is met, wherein the knowledge sharing unit includes, a deduction unit deriving new knowledge from information collected in an execution process of the script based on a deduction rule, and further wherein the knowledge sharing unit is constructed to have a function to execute a script for acquiring knowledge based on the deduction rule when shared knowledge is insufficient.”

The Office Action admits that neither Yunsk nor Kim teach or suggest the above-cited claim limitation, and instead relies on Curtis for this teaching. Curtis teaches a system and method for creating a file capable of executing on one of many different operating systems. Specifically, Curtis teaches that execution of the file involves processing the file into a form that contains native operating system commands and determining whether the file is to be executed after processing or stored for later execution (Col. 2, lines 53 -66).

Applicants respectfully submit that Curtis neither teaches nor suggests “a function to execute a script for acquiring knowledge based on the deduction rule when shared knowledge is insufficient.” Specifically, insofar as the invention of Curtis has any deduction rules, they pertain to detecting operating system type and indicating an execution or storage status for a generated native-format file. Curtis does not teach or suggest any concepts related to insufficient shared knowledge, and specifically does not discuss issues such as the persistence of an awareness of operating system type in the inventive system. Insofar as Curtis is concerned, an un-processed file has no information about the operating system on which it resides and a processed file is always in native operating system format, therefore the “function to execute a script for acquiring knowledge ... when shared knowledge is insufficient” cannot not exist in Curtis because it would serve no purpose. The entire concept of partial, or “insufficient” shared knowledge is wholly absent from Curtis. Knowledge is not disclosed as being “shared” in any way and is instead atomically generated and embedded in separate files during the native operating system file generation process, after which time the native operating system file format

generator forgets everything it “learned” and re-acquires all of this information anew with every execution.

Applicants respectfully submit that if the functional paradigm of independent claim 6 were applied to the teachings of Curtis, the result would be an endless execution loop where the portions of Curtis that generate native operating system format files would constantly re-execute themselves each time they completed a file generation process and “forgot” what type of operating system they resided on. Applicants therefore respectfully submit that Curtis cannot teach or suggest “acquiring knowledge based on the deduction rule when shared knowledge is insufficient” as required by independent claim 6.

#### Claims 20 and 21

Applicants respectfully submit that independent claims 20 and 21 are allowable for at least the same reasons as set forth with respect to independent claim 6.

#### Claims 16 and 17

Applicants respectfully submit that claims 16 and 17 are allowable at least by virtue of their dependency from independent claims 2 and 6.

#### Summary

Applicants respectfully submit that none of Yunsk, Curtis, nor Kim, taken alone or in combination (assuming the references may be combined, which Applicants do not admit) teach or suggest all the limitations of independent claims 6, 20, and 21 and all claims depending therefrom. Applicants further submit that because all of the claim limitations are not present in the references, the rule of *Venner* does not apply. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Michael K. Mutter, Reg. No. 29,680 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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